

THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:

GARON TEMPLE
Employee

v.

DEPARTMENT OF MOTOR
VEHICLES
Agency

)
)
) OEA Matter No. 1601-0106-08
)
) Date of Issuance: November 26, 2008
)
) Sheryl Sears, Esq.
) Administrative Judge
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Clifford Lowery, Employee Representative
Rorey Smith, Esq., Agency Representative

INITIAL DECISION

INTRODUCTION AND FINDINGS OF FACT

Garon Temple ("Employee") was a Motor Vehicle Inspector at the Department of Motor Vehicles ("Agency"). By letter dated December 3, 2007, Agency notified him of a proposal to remove him for making a knowing or negligent material misrepresentation on an employment application or other document given to a government agency. Agency cited the District Personnel Manual (DPM) §1603.3. Agency alleged the following:

The DC Form 2000 Employment Application for the position of Motor Vehicle Inspector was signed and dated by you on 5/23/2000. Section 8(a) of the application read, "During the past 10 years have you been: 1) convicted of or forfeited collateral for any felony; or 2) convicted by a court martial?" You checked "no" for this section of the application. However, based on a copy of the Judgment and Commitment/Probation Order from the Superior Court of the District of Columbia, Case No. F6930-96, dated 3/31/97, you pleaded guilty to attempted robbery and received a sentence of six months to three years. Clearly,

in direct violation of DPM §1603.3, you knowingly misrepresented yourself on your employment application.

Agency referenced a “Judgment and Commitment/Probation Order” in Case Number F 6930-96.

Employee was afforded a hearing before Emeka Moneme. The hearing officer reported that Employee did not submit any documentation and recommended that Agency remove him. By notice of final decision dated June 25, 2008, Lucinda Babers, Director of Agency, notified Employee of the final agency decision that he would be removed effective on June 26, 2008.

Employee filed a petition for appeal with the Office of Employee Appeals (“the Office” or “OEA”) on July 7, 2008. Employee stated that he believes Agency’s action was wrong because he was “singled out” for investigation. Employee maintains that he “never denied” the criminal charges and claims that he presented a “criminal record report” to Agency. However, he offered no explanation for why his original application, submitted into the record by Agency, contains the answer “No,” to the question “During the past 10 years have you been: 1) convicted of or forfeited collateral for any felony; or 2) convicted by a court martial?”

The parties convened for a pre-hearing conference on November 19, 2008. Employee appeared with his representative, Mr. Lowery. Attorney Smith was present on behalf of Agency with Charles Tucker, Esq. At the pre-hearing conference, both parties presented oral remarks. Agency recounted that Employee, along with others at the agency were subjected to an investigation as part of a probe into agency operations by the Federal Bureau of Investigation and the D.C. Office of the Inspector general. The investigation revealed the discrepancy in Employee’s records. In accordance with the Table of Penalties set forth at §1619 of the District Personnel Manual (DPM), which suggests the penalty of removal for “any knowing or negligent material misrepresentation on an employment application,” Agency removed him. Employee did not deny making the misrepresentation but urged that he should not have been removed because his record of employee with Agency of nearly seven years was satisfactory and contained no prior adverse actions. However, Employee acknowledged that Agency acted lawfully in removing him and announced his decision to withdraw his appeal.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ANALYSIS AND CONCLUSION

Based upon Employee's voluntary withdrawal of his petition for appeal, the petition will be dismissed with prejudice.

ORDER

It is hereby ORDERED that the petition for appeal in this matter is dismissed with prejudice.

FOR THE OFFICE:

SHERYL SEARS, ESQ.